



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION VI  
1201 ELM STREET  
DALLAS, TEXAS 75270

April 15, 1986

Ronald L. McCallum, Esq.  
Chief Judicial Officer (A-101)  
U. S. Environmental Protection Agency  
401 M Street, S.W.  
Washington, D.C. 20460

Re: Quivira Mining Co., NPDES Permit No. NM0020532  
Quivira Mining Co., NPDES Permit No. NM0028207  
Homestake Mining Co., NPDES Permit No. NM0020389

Dear Mr. McCallum:

The Environmental Improvement Division (EID) of the New Mexico Health and Environment Department recently submitted Motions to Dismiss the Petitions for Review filed by Quivira Mining Company and Homestake Mining Company. In that EID has not been admitted as a party to the proceedings, Region 6 submits the attached Motions to Dismiss.

Sincerely yours,

*James L. Collins*  
James L. Collins  
Associate Regional Counsel

Enclosures

cc: Regional Hearing Clerk  
Louis W. Rose, Esq.  
G. Stanley Crout, Esq.  
Peter J. Nickles, Esq.

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APR 15 1986

6W-PS

*Watson*  
*Caldwell*  
*files*

BEFORE THE ADMINISTRATOR  
U. S. ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D. C.

IN THE MATTER OF:  
QUIVIRA MINING COMPANY,  
PERMITTEE  
NPDES PERMIT NO. NM0020532

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EPA REGION 6 MOTION TO DISMISS  
QUIVIRA MINING COMPANY'S PETITION FOR REVIEW  
IN REGARD TO NPDES PERMIT NO. NM0020532

EPA Region 6 hereby moves the Administrator to dismiss Quivira Mining Company's (Quivira) Petition for Review. As grounds therefor, Region 6 states:

1. On March 22, 1984, Quivira petitioned the Administrator to review the Regional Administrator's February 24, 1984, denial of Quivira's request for an evidentiary hearing on NPDES Permit No. NM0020532. Quivira sought review on two issues: (1) EPA jurisdiction over Quivira's discharge [Quivira Petition at 1] and (2) permit conditions added through State certification under §401 of the Clean Water Act, 33 U.S.C. §1341 [Id. at 2].

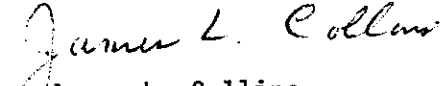
2. On June 10, 1985, the United States Court of Appeals for the Tenth Circuit found that EPA had jurisdiction over the discharge at issue here. Quivira Mining Co. v. EPA, 765 F.2d 126 (10th Cir. 1985). Quivira asked the United States Supreme Court to grant certiorari and review the appellate

court's decision. On January 13, 1986, the Supreme Court denied certiorari. Quivira Mining Co. v. EPA, 106 S. Ct. 791 (1986). Therefore, EPA has jurisdiction over Quivira's discharge, and there remains no issue for decision here.

3. The Administrator has no jurisdiction to review conditions imposed in an NPDES permit through the state certification process. 40 C.F.R. §124.55(e) provides that "[r]eview and appeals of limitations and conditions shall be made through applicable procedures of the State and may not be made through the procedures [in 40 C.F.R. Part 124]." (Emphasis added.) The federal courts have similarly held that conditions of state certification are matters of state law and are not reviewable by the Administrator. Roosevelt Campobello International Park Commission v. EPA, 684 F.2d 1041 (1st Cir. 1982); United States Steel Co. v. Train, 556 F.2d 822 (7th Cir. 1977); Lake Erie Alliance for Protection of Coastal Corridor v. Army Corps of Engineers, 526 F. Supp. 1063 (W.D. Pa. 1981), affirmed 707 F.2d 1392 (3rd Cir. 1983), cert. denied 464 U.S. 915 (1983); Mobil Oil Corp. v. Kelley, 426 F. Supp. 230 (S.D. Ala. 1976).

4. Since Quivira's challenge to EPA jurisdiction has been resolved in favor of EPA, and since the Administrator has no authority to review conditions added to an NPDES permit through State certification under §401, no issues remain to be resolved in an evidentiary hearing. Thus, the Regional Administrator's decision to deny the request for evidentiary hearing should be affirmed and Quivira's petition for review should be dismissed.

Respectfully submitted,

  
James L. Collins  
Associate Regional Counsel

BEFORE THE ADMINISTRATOR  
U. S. ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D. C.

IN THE MATTER OF:

QUIVIRA MINING COMPANY,

PERMITTEE

NPDES PERMIT NO. NM0028207

EPA REGION 6 MOTION TO DISMISS  
QUIVIRA MINING COMPANY'S PETITION FOR REVIEW  
IN REGARD TO NPDES PERMIT NO. NM0028207

EPA Region 6 hereby moves the Administrator to dismiss Quivira Mining Company's (Quivira) Petition for Review. As grounds therefor, Region 6 states:

1. On March 22, 1984, Quivira petitioned the Administrator to review the Regional Administrator's February 24, 1984, denial of Quivira's request for an evidentiary hearing on NPDES Permit No. NM0028207. Quivira sought review on two issues: (1) EPA jurisdiction over Quivira's discharge [Quivira Petition at 1] and (2) permit conditions added through State certification under §401 of the Clean Water Act, 33 U.S.C. §1341 [Id. at 2].

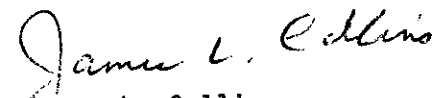
2. On June 10, 1985, the United States Court of Appeals for the Tenth Circuit found that EPA had jurisdiction over the discharge at issue here. Quivira Mining Co. v. EPA, 765 F.2d 126 (10th Cir. 1985). Quivira asked the United States Supreme Court to grant certiorari and review the appellate

court's decision. On January 13, 1986, the Supreme Court denied certiorari. Quivira Mining Co. v. EPA, 106 S. Ct. 791 (1986). Therefore, EPA has jurisdiction over Quivira's discharge, and there remains no issue for decision here.

3. The Administrator has no jurisdiction to review conditions imposed in an NPDES permit through the state certification process. 40 C.F.R. §124.55(e) provides that "[r]eview and appeals of limitations and conditions shall be made through applicable procedures of the State and may not be made through the procedures [in 40 C.F.R. Part 124]." (Emphasis added.) The federal courts have similarly held that conditions of state certification are matters of state law and are not reviewable by the Administrator. Roosevelt Campobello International Park Commission v. EPA, 684 F.2d 1041 (1st Cir. 1982); United States Steel Co. v. Train, 556 F.2d 822 (7th Cir. 1977); Lake Erie Alliance for Protection of Coastal Corridor v. Army Corps of Engineers, 526 F. Supp. 1063 (W.D. Pa. 1981), affirmed 707 F.2d 1392 (3rd Cir. 1983), cert. denied 464 U.S. 915 (1983); Mobil Oil Corp. v. Kelley, 426 F. Supp. 230 (S.D. Ala. 1976).

4. Since Quivira's challenge to EPA jurisdiction has been resolved in favor of EPA and the Administrator has no authority to review conditions added to an NPDES permit through State certification under §401, no issues remain to be resolved in an evidentiary hearing. Thus, the Regional Administrator's decision to deny the request for evidentiary hearing should be affirmed and Quivira's petition for review should be dismissed.

Respectfully submitted,

  
James L. Collins  
Associate Regional Counsel

BEFORE THE ADMINISTRATOR  
U. S. ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D. C.

IN THE MATTER OF:

HOMESTAKE MINING COMPANY,

PERMITTEE

NPDES PERMIT NO. NM0020389

EPA REGION 6 MOTION TO DISMISS  
HOMESTAKE MINING COMPANY'S PETITION FOR REVIEW  
IN REGARD TO NPDES PERMIT NO. NM0020389

EPA Region 6 hereby moves the Administrator to dismiss Homestake Mining Company's (Homestake) Petition for Review. As grounds therefor, Region 6 states:

1. On March 22, 1984, Homestake petitioned the Administrator to review the Regional Administrator's February 24, 1984, denial of Homestake's request for an evidentiary hearing on NPDES Permit No. NM0020389. Homestake sought review on two issues: (1) EPA jurisdiction over Homestake's discharge [Homestake Petition at 1] and (2) permit conditions added through State certification under §401 of the Clean Water Act, 33 U.S.C. §1341 [Id. at 2].

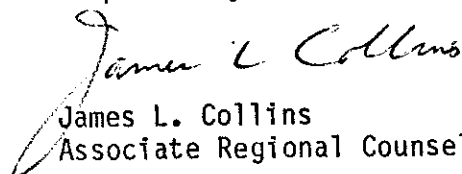
2. On June 10, 1985, the United States Court of Appeals for the Tenth Circuit found that EPA had jurisdiction over the discharge at issue here. Quivira Mining Co. v. EPA, 765 F.2d 126 (10th Cir. 1985). Homestake asked the United States Supreme Court to grant certiorari and review the appellate

court's decision. On January 13, 1986, the Supreme Court denied certiorari. Quivira Mining Co. v. EPA, 106 S. Ct. 791 (1986). Therefore, EPA has jurisdiction over Homestake's discharge, and there remains no issue for decision here.

3. The Administrator has no jurisdiction to review conditions imposed in an NPDES permit through the state certification process. 40 C.F.R. §124.55(e) provides that "[r]eview and appeals of limitations and conditions shall be made through applicable procedures of the State and may not be made through the procedures [in 40 C.F.R. Part 124]." (Emphasis added.) The federal courts have similarly held that conditions of state certification are matters of state law and are not reviewable by the Administrator. Roosevelt Campobello International Park Commission v. EPA, 684 F.2d 1041 (1st Cir. 1982); United States Steel Co. v. Train, 556 F.2d 822 (7th Cir. 1977); Lake Erie Alliance for Protection of Coastal Corridor v. Army Corps of Engineers, 526 F. Supp. 1063 (W.D. Pa. 1981), affirmed 707 F.2d 1392 (3rd Cir. 1983), cert. denied 464 U.S. 915 (1983); Mobil Oil Corp. v. Kelley, 426 F. Supp. 230 (S.D. Ala. 1976).

4. Since Homestake's challenge to EPA jurisdiction has been resolved in favor of EPA and the Administrator has no authority to review conditions added to an NPDES permit through State certification under §401, no issues remain to be resolved in an evidentiary hearing. Thus, the Regional Administrator's decision to deny the request for evidentiary hearing should be affirmed and Homestake's petition for review should be dismissed.

Respectfully submitted,

  
James L. Collins  
Associate Regional Counsel

# CERTIFICATE OF SERVICE


I hereby certify that a true and correct copy of the EPA Region 6 Motion to Dismiss Quivira Mining Company's Petition for Review in Regard to NPDES Permit No. NM0020532, EPA Region 6 Motion to Dismiss Quivira Mining Company's Petition for Review in Regard to NPDES Permit No. NM0028207, and EPA Region 6 Motion to Dismiss Homestake Mining Company's Petition for Review in Regard to NPDES Permit No. NM0020389 was mailed via first class mail to the following:

G. Stanley Crout  
Sunny J. Nixon  
Stephenson, Carpenter, Crout & Olmsted  
142 West Palace Ave., Suite 200  
P. O. Box 669  
Santa Fe, NM 87504-0669

Peter J. Nickles  
Richard A. Meserve  
Covington & Burling  
1201 Pennsylvania Ave., N.W.  
P. O. Box 7566  
Washington, D.C. 20044

Louis W. Rose  
Special Assistant Attorney General  
Division Attorney  
New Mexico Health and Environment Department  
Environmental Improvement Division  
P. O. Box 968  
Santa Fe, NM 87504-0968

A true and correct copy of the EPA Region 6 Motion to Dismiss Quivira Mining Company's Petition for Review in Regard to NPDES Permit No. NM0020532, EPA Region 6 Motion to Dismiss Quivira Mining Company's Petition for Review in Regard to NPDES Permit No. NM0028207, and EPA Region 6 Motion to Dismiss Homestake Mining Company's Petition for Review in Regard to NPDES Permit No. NM0020389 was hand delivered to the Regional Hearing Clerk, U. S. Environmental Protection Agency, Region 6.

  
Toni G. Gould, Paralegal Specialist  
Office of Regional Counsel

Dated: This 15th day of April, 1986.

<b>RECORD OF COMMUNICATION</b>	<input type="checkbox"/> PHONE CALL <input checked="" type="checkbox"/> DISCUSSION <input type="checkbox"/> FIELD TRIP <input type="checkbox"/> CONFERENCE <input type="checkbox"/> OTHER (SPECIFY)	
	(Record of item checked above)	
<b>TO:</b>  Permit File	<b>FROM:</b>  Glenda Gaddis	<b>DATE</b> 11/5/84 <b>TIME</b>
<b>SUBJECT</b> Transfer to Homestake Mining Company NM0020389		
<b>SUMMARY OF COMMUNICATION</b> <p>Notified by Potts that the name should be change to Homestake Mining Company from United Nuclear -Homestake Partners. The file reflects that the change should be made.</p>		
<b>CONCLUSIONS, ACTION TAKEN OR REQUIRED</b> <p>Transfer/Change name on PCS System/File</p>		
<b>INFORMATION COPIES</b> <b>TO:</b> Permit File		

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HOMESTAKE MINING COMPANY

P.O. BOX 98  
GRANTS, NEW MEXICO  
87020

March 28, 1984

cc: 6W-P  
6W-EC

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APR -2 1984

6W-EA

CERTIFIED MAIL NO. P22 0259463

ESID

Bruce R. Barrett  
Office of Water Enforcement and Permits  
United States Environmental Protection Agency  
Region VI  
1201 Elm Street  
Dallas, Texas 75270

Re: NPDES Permit No. NM-0020389  
Homestake Mining Company

Dear Mr. Barrett:

We are in receipt of your letter of February 27, 1984 concerning a set of performance samples you sent to us for analysis.

As you know, Homestake Mining Company ("Homestake") requested an evidentiary hearing on the above referenced permit by letter of August 11, 1983, which was timely submitted to the Regional EPA Administrator's office. By letter of February 24, 1984 the Regional Administrator denied Homestake's evidentiary hearing request. Homestake has timely appealed to the Administrator, pursuant to 40 CFR §124.91, the Regional Administrator's denial by way of Notice of Appeal and Petition for Review of the Denial of an Evidentiary Hearing by the Regional Administrator and Motion for Stay of the Permit pending judicial review. Thus, final agency action has not yet been taken on the above referenced permit.

Homestake has challenged the EPA Administrator's order denying review of an initial decision issued by the Regional Administrator on the prior permit with the same number. Homestake has sought judicial review of this decision in the U.S. Court of Appeals for the Tenth Circuit, Homestake Mining Company v. EPA, No. 82-2356. This appeal challenges EPA's own finding that it has jurisdiction to issue an NPDES permit on Homestake's discharge.

Since the question of jurisdiction has not been finally resolved, Homestake takes the position before the Administrator that the above referenced permit should be stayed. The Administrator has not yet ruled on Homestake's motion for a stay. Until the question of a stay and EPA's jurisdiction is finally resolved, submitting reports of Homestake's sampling and monitoring to EPA is not appropriate.

You indicate the results from analyses from our laboratory of samples sent to us by you are to be used to evaluate the analytical

Mr. Bruce R. Barre  
March 28, 1984  
Page 2

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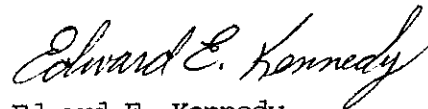
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ability of our laboratory regarding reporting of NPDES self-monitoring data. Since EPA's jurisdiction to require such a permit and the issue of a stay have not yet been finally resolved, analyses relating to data concerning the above referenced permit would be inappropriate.

Very truly yours,

HOMESTAKE MINING COMPANY



Edward E. Kennedy  
Director of Environmental Affairs

EEK:jg

cc: J. M. Parker  
G. S. Crout

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

JUL 15 1983

CERTIFIED MAIL: RETURN RECEIPT REQUESTED (P 455 383 484)

Mr. Edward E. Kennedy  
Director, Environmental Affairs  
Homestake Mining Co.  
P.O. Box 98  
Grants, New Mexico 87020

Re: Application to Discharge to Waters of the United States  
Permit No. NM0020389

Dear Mr. Kennedy:

Enclosed is the public notice of the Agency's final permit decision and a copy of our response to comments and the final permit. This public notice describes any substantial changes from the draft permit.

If you intend to request an evidentiary hearing, please follow the requirements outlined in the public notice of the draft permit.

Should you have any questions please feel free to contact the Permits Branch at the above address or telephone (214) 767-4375.

Sincerely,

/s/Myron O. Knudson

Myron O. Knudson, P.E.  
Director, Water Management Division (6W)

Enclosures

cc w/permit copy:  
New Mexico Environmental Improvement Division

*JCH 6/24/83*

6-23-83:HUMKE:am:M7:174HUM01/-03

SYMBOL	6W-PI	6W-P	CONCURRENCES			
SURNAME	Cabra	Hanneschlager				
DATE	6/24/83	6/27	6/27			

Advertising Order Number 3T-3306-NALX  
U.S. Environmental Protection Agency Region 6  
Public Notice of Final Permit Decision

July 16, 1983

This is to give notice that the U.S. Environmental Protection Agency, Region 6, has made a final permit decision and will issue the following Three (3) Proposed Permit(s) under the National Pollutant Discharge Elimination System. The permit(s) will become effective 30 days from the date of this Public Notice. Any substantial changes from the Draft Permit are cited.

This issuance is based on a final staff review of the administrative record and comments received. A Response to Comments is available by writing to:

Mr. Mark Satterwhite  
Permits Branch (6W-PS)  
U.S. Environmental Protection Agency - Region 6  
Interfirst Two Building  
1201 Elm Street  
Dallas, Texas 75270  
(214) 767-2765

Any person may request an Evidentiary Hearing on this final permit decision. However, the request must be submitted within 30 days from the date of this Notice. The request should be in accordance with the requirements of 40 CFR 124.74 (Fed. Reg. Vol. 45, No. 98, Monday, May 19, 1980). The original public notice contains the stay provisions of a granted evidentiary hearing request.

Further information including the administrative record may be viewed at the above address between 8 a.m. and 4:30 p.m., Monday thru Friday.

1. NPDES authorization to discharge to waters of the United States, permit No. NM0020389.

The applicant's mailing address is: Homestake Mining Co.  
P.O. Box 98  
Grants, New Mexico 87020

The discharge from this existing source facility is made into Arroyo del Puerto to San Mateo Creek, a water of the United States classified for recreation and support of desirable aquatic life presently common in New Mexico waters. The discharge is located on that water in the Ambrosia Lake mining area approximately 25 miles north of Grants, New Mexico. Under the standard industrial classification (SIC) code 1094, the applicant's activities are the recovery by ion exchange of uranium from mine water.

There are substantial changes from the draft permit.

1. Biomonitoring requirements are deleted from outfall 001.
2. Lead-210, polonium-210, barium and manganese monitoring and reporting are included in outfall 001.
3. Part III conditions from New Mexico regulations are added for radioactivity.

2. NPDES authorization to discharge to waters of the United States, permit No. NM0028100.

The applicant's mailing address is: Gulf Oil Corporation  
P.O. Box 1150  
Grants, New Mexico 87020

The discharge from this existing source facility is made into an unnamed arroyo to San Miguel Creek, a water of the United States classified for recreation and support of desirable aquatic life presently common in New Mexico Waters. The discharge is located on that water in Cibola County, New Mexico. Under the standard industrial classification (SIC) code 1094, the applicant's activities are underground mining of uranium ore.

There are substantial changes from the draft permit.

For outfall 001, limitations are revised to within the range of 6.0 to 9.0 standard units. Biomonitoring requirements are deleted.

3. NPDES authorization to discharge to waters of the United States, permit No. NM0028215.

The applicant's mailing address is: Bokum Resources Corporation  
P.O. Box 1833  
Santa Fe, New Mexico 87501

The discharge from this existing source is made into an unnamed tributary of Canon de Seco to Salado Creek, a tributary to Rio Puerco and the Rio Grande River, a water of the United States classified for recreation and support of desirable aquatic life presently common in New Mexico waters. The discharge is located on that water near Marquez, New Mexico at the Marquez mine. Under the standard industrial classification (SIC) code 1094, the applicant's activities are the production of uranium ore.

There are substantial changes from the draft permit.

1. For outfall 001, monitoring and reporting is added for lead - 210, polonium - 210, barium and manganese.
2. Part III conditions are added for state regulations for radioactivity.

This is our response to the comments received on the subject draft NPDES permit in accordance with our regulations.

RESPONSE TO COMMENTS  
DRAFT NPDES PERMIT

Permit No.: NM0020389  
Draft Permit Public Notice Date: May 21, 1983  
Prepared by: Fred Humke

Issue: NMEID requires as a condition of certification that lead-210, polonium-210, barium and manganese monitoring and reporting be incorporated at outfall 001.

Response: These conditions have been added.

Issue: NMEID requires as a condition of certification that Part III conditions from New Mexico regulations be added for hazardous substances and radioactivity.

Response: These conditions have been added.

Issue: The permittee believes that the facility is not subject to NPDES permitting because the permittee believes that neither Arroyo del Puerto or San Mateo Creek are "waters of the United States".

Response: Arroyo del Puerto and San Mateo Creek are intermittent tributaries of the Rio Grande River and the facility is subject to NPDES permitting. See Part 122.3.

Issue: The permittee believes that "recreation and support of desirable aquatic life presently common in New Mexico waters" is not a proper classification for the tributaries and receiving streams.

Response: This classification applies to all suitable surface waters (unless otherwise specified) in the State of New Mexico. Reference is made to New Mexico WQS, Section C, General Standards, the first paragraph. There is no question that it includes the Rio Grande River.

Issue: The permittee requests that the pH limitations be changed from within the range of 6.6 to 8.6 standard units to within the range of 6.0 to 9.0 standard units.

Response: EPA has incorporated the more stringent limitations based on direction from the NMEID. In accordance with its authority under the CWA and EPA regulations, NMEID retains these limits as conditions of certification for this permit.

Issue: The permittee requests that the permit conditions be revised to incorporate proposed changes to Parts 122, 124 and 125 pursuant to the settlement agreement.

Response: The permit is drafted in accordance with Parts 122, 124 and 125 as now promulgated.

Issue: The permittee objects to the inclusion of biomonitoring requirements in this permit.

Response: Under Section 308 of the CWA, EPA has the authority to require monitoring in support of toxic information. This in no way effects the permit limitations or is associated with the impact on water quality at this specific site. However, based on the economic situation associated with this facility, EPA has removed biomonitoring from this permit.

Issue: The permittee objects to State Certification as a condition for additional parameters and conditions.

Response: In accordance with the CWA and EPA regulations, NMEID has the authority to require additional parameters, monitoring and conditions in support of WQS. These additional parameters and conditions are incorporated.

Issue: The permittee objects to the analysis methods for total uranium as included in Part III, paragraph 3.b.

Response: These methods are imposed by the regulations under Part 440.132(f). Furthermore, the permittee has not applied for alternate methods in accordance with Part 136.4.

*Water Branch*  
*Hank*  
*file*

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May 21 10 46 AM '86  
OFFICE OF REGION 6  
EPA REGION 6

BEFORE THE ADMINISTRATOR  
U.S. ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C.

In the Matter of:	)	
	)	NPDES Appeal 84-5
Homestake Mining Company,	)	
	)	
Permittee	)	
	)	
NPDES Permit No. NM0020389	)	
<hr/>		

ORDER DENYING PETITION FOR REVIEW

Homestake Mining Company (Homestake) petitions the Administrator for review of EPA Region VI's denial of its request for an evidentiary hearing on the above-referenced NPDES permit. The Chief Judicial Officer, as the Administrator's delegatee, has the authority to decide this petition pursuant to 40 CFR §124.91.

A petition for review is not normally granted unless the Region's decision is clearly erroneous or involves an exercise of discretion or policy that is important and therefore should be reviewed as a discretionary matter. Boston Edison Company, NPDES Appeal No. 78-7, August 28, 1978; Kerr-McGee Nuclear Corporation (Church Rock Facility), NPDES Appeal No. 83-2, July 21, 1983. The regulations do not confer an automatic right of review. The burden of demonstrating that review should be granted is on the petitioner. As discussed below, Homestake has failed to meet its burden here. Accordingly, its petition for review is denied.

Homestake raises three arguments in its petition. It argues that it should not be required to obtain an NPDES permit since EPA does not have jurisdiction over its discharges.<sup>1/</sup> Alternatively, Homestake argues that if it is required to have a permit, the Region erroneously included certain requirements from the State certification in such permit. Finally, Homestake argues that certain conditions in the permit should have been modified to reflect proposed changes in the NPDES permit regulations. Such changes were proposed as a result of a settlement agreement in NRDC v. EPA, No. 80-1607 (D.C. Cir., filed June 2, 1980).<sup>2/</sup> Homestake's arguments are discussed below in turn.

The issue of whether the Agency has jurisdiction over Homestake's discharges was resolved in United Nuclear-Homestake Partners, NPDES Appeal No. 83-6, Order Denying Petition for Review, dated August 5, 1983. (Homestake succeeded to United Nuclear-Homestake Partner's interest.) In United Nuclear-Homestake Partners I held that the arroyo (Arroyo del Puerto) into which the company discharged its effluent was a "water of the United States" -- despite UNHP's arguments to the contrary -- and thus EPA had the authority under the Clean Water Act to

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1/ Homestake discharges into Arroyo del Puerto, which it characterizes as a "normally dry arroyo" except for intermittent precipitation and the discharges themselves. See Petition for Review, p. 1; Request for Evidentiary Hearing p. 4.

2/ The NPDES permit regulations were challenged in court by both industry and public interest groups. The cases were consolidated into a single action in the United States Court of Appeals, D.C. Circuit (NRDC v. EPA, No. 80-1607). EPA entered into a settlement agreement with industry petitioners and agreed to propose modifications to the regulations.

issue the NPDES permit being contested in that case. That holding was affirmed by the U.S. Court of Appeals for the tenth circuit in Quivira Mining Company and Homestake Mining Company v. EPA, 765 F.2d 126 (1985), with the Supreme Court recently denying certiorari in the case, 106 S.Ct. 791(1986).

In its petition, Homestake challenges the Agency's regulatory authority over its discharges by making the same "dry arroyo" or "ephemeral stream" arguments as UNHP made in the earlier case. The permit currently being contested here by Homestake is for discharges from the same uranium mine to the same arroyo (Arroyo del Puerto) as involved in my earlier UNHP decision. Indeed, the Regional Administrator relied (in part) on my earlier holding in UNHP when he denied Homestake's request for an evidentiary hearing. In its petition Homestake offers no new facts that would cause me to depart from my earlier decision holding that Arroyo del Puerto is, for purposes of the Clean Water Act, a "water of the United States." Thus Homestake is required to obtain an NPDES permit for discharges from its uranium mine to the Arroyo.

Secondly, Homestake challenges certain requirements imposed in its permit through the State certification process, claiming that the challenged requirements are unnecessary to assure compliance with the Clean Water Act. <sup>3/</sup> It is well-

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<sup>3/</sup> The requirements in question certified by the State are monitoring requirements for Polonium-210, Barium, Manganese, and Lead-210. Homestake also challenged insertion into its permit of certain State-certified water quality standards which Homestake did not specifically identify for the appeals record.

settled that the Agency has no jurisdiction to review state certified requirements that a permittee considers unnecessary (or more stringent than necessary) to assure compliance with the Clean Water Act. <sup>4/</sup>

40 CFR §124.55 states:

Effect of State Certification

- (e) Review and appeals of limitations and conditions attributable to State certification shall be made through applicable procedures of the State and may not be made through the procedures of this part. [i.e., Part 124].

Courts have consistently agreed with this, "ruling that the proper forum to review the appropriateness of a state's certification is the state court, and that federal courts and agencies are without authority to review the validity of requirements imposed under state law or in a state's certification. See United States Steel Corporation v. Train, 556 F.2d 822, 837-839

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<sup>4/</sup> Stated another way, the Agency may not "look behind" a state certification. "Limitations contained in a State certification must be included in an NPDES permit." EPA, Decision of the General Counsel No. 58 (March 2, 1977); see also Decision of the General Counsel No. 44 (June 22, 1976). However, it should be noted that the Agency must disregard state-certified limitations or requirements that are less stringent than those contained in the permit. 40 CFR §124.55(c)(1985). (That is not the situation here.) More stringent requirements are a different matter. The Clean Water Act preserves a state's right to enact its own anti-pollution measures even if they are more stringent than necessary to comply with the CWA. CWA §510. Roosevelt-Campobello International Park Commission, 684 F.2d 1041, 1056 (1982). (Indeed, states are free to adopt and enforce anti-pollution requirements which "force technology . . . even at the cost of economic and social dislocations caused by plant closings." United States Steel Corporation v. EPA, 556 F.2d 822 (7th Cir. 1977). See also EPA v. California ex rel

(next page)

and n. 22 (7th Cir. 1977); Lake Erie Alliance v. U.S. Army Corps of Engineers, 526 F.Supp 1063, 1074 (W.D. Pa. 1981); Mobil Oil Corp v. Kelley, 426 F.Supp 230, 234-35 (S.D. Ala. 1970)."  
Roosevelt Campobello International Park Commission v. EPA, 684 F.2d 1041, 1056 (1982). Accordingly, the Region properly denied Homestake's request for an evidentiary hearing (which it made pursuant to Part 124, i.e., 40 CFR §124.74) to review the "appropriateness of the State certification." The proper forum for such review is at the State level.<sup>5/</sup>

Finally, Homestake argues that the Regional Administrator should have incorporated certain proposed revisions to the NPDES regulations in its permit. In that regard, in its request for an evidentiary hearing, Homestake stated:

The . . . NPDES permit should be written in such a way as to incorporate the proposed changes

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(Footnote No. 4 cont'd)

State Water Resources Control Board, 426 U.S. 200, 219, 96 S.Ct 2022, 2031, 48 L.Ed 2d 578 (1976) and State of Minnesota v. Hoffman, 543 F.2d 1198, 1208 (8th Cir. 1976)). And, a state may certify (indeed, a state must certify) any such more stringent limitations or requirements for inclusion in the NPDES permit. CWA §401(d).

<sup>5/</sup> In an additional argument related to state certification, Homestake argues that the Region erred by including a pH limit of between 6.6 and 8.6 in the permit because the State did not impose that limit (nor indeed any pH limit) in its certification. While technically it is true that the State certification specifies no pH limitation, it is apparent from the record that a pH limit of between 6.6 and 8.6 is a State requirement and, like other State requirements, must be included in an EPA issued

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to Part 122, 124 and 125 of the consolidated permit regulations, pursuant to the settlement agreement entered into by EPA and industry petitioners in the consolidated permit regulations litigation (NRDC v. EPA and consolidated cases No. 80-1607 [D.C. Cir. filed June 2, 1980]). These changes are described by EPA as "reducing the regulatory burdens imposed on permittees" 47 Fed. Reg. p. 52072. Nov. 18, 1982. At a minimum, Part II, Standard Conditions for NPDES Permits should be amended to include in Section A a new paragraph which would provide for modification of the permit in conformance with final rules under the settlement. (Emphasis added.)

Homestake seems to be making two separate claims. First, Homestake claims that the changes to the NPDES regulations proposed as a result of the Settlement Agreement in NRDC v. EPA should be incorporated into its final permit despite the fact that, at the time its final permit was issued, the regulations containing such changes were still in their proposed form and had not yet been promulgated as final rules.<sup>6/</sup> Secondly, Homestake seems to be claiming that its permit should contain a

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(Footnote No. 5 cont'd)

permit, CWA §301(b)(1)(C), regardless of whether or not it is certified by the State. See letter from Anthony Drypolcher, Environmental Improvement Division, Health Environment Department, State of New Mexico dated July 14, 1983, in reply to request for specification of basic conditions of certification required by New Mexico from Robert Hanneschlager, U.S. EPA; see also Fact Sheet pp. 2 and 3. As with any other state requirement, the validity of the requirement itself is only subject to challenge in the State courts.

6/ Homestake seems to be requesting incorporation in its permit of all the changes (which would have the effect of "reducing the regulatory burdens imposed" on it) proposed as a result of the NRDC settlement agreement. However, in its request for an evidentiary hearing it specifically identified only a limited number of proposed changes.

clause providing for the modification of its permit as the proposed rules become final. Neither of these claims has merit.

With regard to Homestake's claim that the proposed changes should have been incorporated into its permit, the Regional Administrator explained that "[t]he permit is drafted in accordance with the regulations] as . . . promulgated [when the permit was issued.]" Response to Comments at 2. I agree. Permit terms and conditions cannot be based on proposed rules since they are tentative and may change before being promulgated in final form. This point was clearly made in State of Alabama v. EPA, 557 F.2d 1101, 1110 (5th Cir. 1977). <sup>7/</sup> In that case the Court stated:

"We affirm EPA's conclusion that the appropriate BPT limitations to be applied in a permit are those in effect at the time of initial permit issuance. Permit review proceedings may consume many months during which standards and guidelines might change more than once. Until proposed regulations withstand the rigors of the full administrative process, they are too tentative to govern the actions of regulated companies (Emphasis added). <sup>8/</sup>

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<sup>7/</sup> See also 40 CFR §122.43(b)(1)(1985).

<sup>8/</sup> The Court continued: "Moreover, ongoing [permitting] proceedings should not be interrupted when proposed regulations become final." Nevertheless, EPA's current procedures do allow for the interruption of permitting proceedings when proposed regulations become final during the course of such proceedings and a party to the proceedings requests permit modification based upon the new regulations. In that regard 40 CFR §124.86(c) (1986) states:

[A]ny party may file with the Presiding Officer a motion seeking to apply to the permit any regulatory . . . provisions issued or made available after the

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Clearly then Homestake was not entitled to the benefit of any regulatory changes that were merely proposed at the time the Regional Administrator issued the final permit.

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(Footnote No. 8 cont'd)

issuance of the permit. . . . The Presiding Officer may grant a motion to apply a new regulatory requirement when appropriate to carry out the purpose of CWA, and when no party would be unduly prejudiced thereby.

It should be noted that 40 CFR §124.86(c)(1986) modifies EPA's decision in U.S. Pipe and Foundry Company, NPDES Appeal No. 75-4, Decision of the Administrator (October 10, 1975), which states:

[T]o allow permit limitations and conditions to change according to a "floating" standard or guideline during the pendency of a permit review proceeding would be highly disruptive and counterproductive. . . . I recognize that permit review proceedings may consume many months, during which standards and guidelines for determining permit conditions may change (or take on greater specificity). . . .

[T]he Administrator's review of the original action taken by the Regional Administrator should be based on the standards and guidelines in existence at the time the original action was taken, and thus, to that extent, finality must be accorded the original action taken. . . . As a matter of policy, EPA should do its utmost to avoid the problems associated with the "moving target" criticism so often asserted by those subject to the regulatory requirements of this and other government agencies. The standards and guidelines for the preparation of NPDES permits must be fixed at some point in time so permit terms can become final and pollution abatement can proceed. I believe the proper point in time for fixing applicable NPDES standards and guidelines is when the Regional Administrator initially issues a final permit.

As stated in the preamble to 40 CFR §124.86(c)

EPA has preserved the general rule enunciated in the U.S. Pipe decision, but has modified it to allow [the Presiding Officer] to apply new regulations where to do so would not unduly prejudice any party. 44 Fed. Reg. 32887 (June 7, 1979).

Homestake also claims that it is entitled to insertion of a clause in its permit granting it the right to modify its permit as the proposed rules (i.e., the rules proposed as a result of the NRDC v. EPA Settlement Agreement) become final.<sup>9/</sup> Homestake does not mention that any condition or limitation should be attached to such right. This unlimited right that Homestake requests would conflict with 40 CFR §122.62(18)(1985), which allows for permit modification in accord with permit regulations issued under the NRDC v. EPA Settlement Agreement only in limited circumstances. In that regard 40 CFR §122.62(18)(1985) provides for permit modification when, among other things,

[T]he permit becomes final and effective on or after March 9, 1982, and the permittee applies for the modification no later than January 24, 1985, if the permittee shows good cause in its request and that it qualifies for the modification, to conform to changes respecting . . . regulations issued under [the NRDC v. EPA Settlement Agreement]. . . .

With regard to the requirement that the permittee show "good cause" for the requested modification, the preamble to the proposed version of 40 CFR §122.62(18) states:

The changes in today's proposal do not affect or modify existing permits. Permittees must comply with the terms of their permits, even if those terms differ from the requirements in the regulations. See CWA, §402(h). However, in order to prevent unneces-

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<sup>9/</sup> Since the time Homestake's permit was issued EPA has issued final regulations with respect to all of the regulations proposed to be modified pursuant to the Settlement Agreement. See 49 Fed. Reg. 37998 (September 26, 1984).

sary administrative hearings and litigation during rulemaking proceedings on these proposals, EPA has agreed to propose a new §122.15(a)(5)(XIV) allowing NPDES permits that became final after March 9, 1982, to be modified to conform to any final rule adopted under this Settlement Agreement for §§122.60(g)(2)(ii) (bypass), 122.63(b) (actual production), 122.83(c) (total metals), 122.65 (discharge into POTWs, wells, or by land disposal). A permittee would be required to demonstrate that it qualifies for the modification and that good cause exists to modify the permit. The good cause requirement calls for the permittee to show something more than that it qualifies for the modification since such a showing must be made in any modification request. For example, the permittee might show good cause by demonstrating that the modification would result in cost savings, reduce energy consumption, allow the use of simpler or more reliable control technologies, or otherwise significantly alleviate the burden imposed by its current permit terms and conditions, including permit limits. (Emphasis added.) 47 Fed. Reg. 52072, 520084 (November 18, 1982).

Insertion of a permit clause (or paragraph) allowing Homestake to modify its permit in accordance with final rules promulgated as a result of the NRDC Settlement Agreement, without reference to the requirements and limitations of §122.62(18) (e.g., the requirement that the permittee show "good cause" for the requested modification) would be a subversion of that section. Therefore, Homestake's claim that such a clause should be inserted into its permit is rejected. <sup>10/</sup>

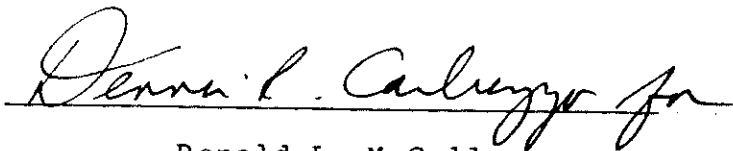
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<sup>10/</sup> The clause is also unnecessary to the extent any of the modifications qualify as "minor" pursuant to §122.63(f), i.e., the "Minor modification of permits" section, since Homestake would be entitled to such modifications under §122.63(f)'s streamlined minor modifications procedures without inserting the clause in the permit. See 47 Fed. Reg. 52072, 52085 (November 18, 1982).

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For all the foregoing reasons Homestake has not shown that the Regional Administrator's decision denying its request for an evidentiary hearing is clearly erroneous or involves a discretionary matter that I should review. 40 CFR §124.91. Accordingly, the petition for review is denied.

So ordered.



Ronald L. McCallum  
Chief Judicial Officer

Dated: MAY 19 1986

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(Footnote No. 9 cont'd)

More importantly, nothing in this Order should be read as precluding Homestake from applying for permit modification under 40 CFR §122.62(18). Indeed, the Region is directed to provide Homestake such an opportunity. Pursuant to §122.62(18)'s requirements, Homestake's permit was issued after March 9, 1982, and its request for an evidentiary hearing on the final permit, which was filed before January 24, 1985, can be construed as an application for modification of its permit "to conform to changes respecting the regulations . . . issued under [the NRDC v. EPA settlement agreement]" (See Request for Evidentiary Hearing pp. 9, 10). However, its Request does not contain the good cause showing required by §122.62(18). This omission may be attributable to the fact that well before January 24, 1985, to the present, Homestake's focus has been on 40 CFR §§124.74 (Requests for Evidentiary Hearing) and 124.91 (Appeal to Administrator) as a means of incorporating the "NRDC v. EPA Settlement Agreement rule changes" into its permit, and, understandably Homestake failed to focus on the modification procedures contained in §122.62(18) (including the necessity to make the "good cause" showing required under that section) as an alternative means of achieving that same end.

Accordingly, in an effort to be fair, the Region is directed to allow Homestake a reasonable period of time to make the good cause showing required under §122.62(18) despite the running of the January 24, 1985 deadline set forth in §122.62(18).

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Order Denying Petition for Review In the matter of Homestake Mining Company, NPDES Appeal No.84-5, were mailed to the following:

By 1st class mail,  
postage prepaid:

Peter J. Nickles  
Richard A. Meserve  
Covington & Burling  
1201 Pennsylvania Avenue, NW.  
P.O. Box 7566  
Washington, DC 20044

Louise M. Rose  
Assistant Attorney General  
Enironmental Improvement  
Division  
State of New Mexico  
P.O. Box 968  
Santa Fe, NM 87503-0968

G. Stanley Crout  
Sunny J. Nixen  
Stephenson, Carpenter, Crout  
& Olmsted  
P.O. Box 669  
Santa Fe, NM 87504-0669

James Collins  
Associate Regional Counsel  
U.S. EPA Region VI  
1201 Elm Street  
Dallas, TX 57270

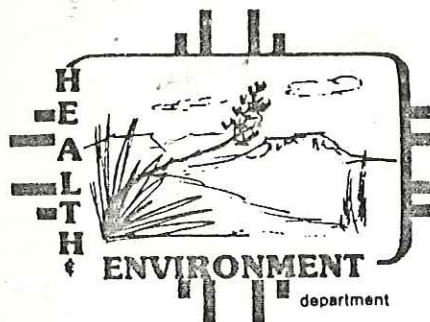
Dick Whittington, P.E.  
Regional Administrator  
U.S. EPA Region VI  
1201 Elm Street  
Dallas, TX 57270

Judy Grady  
Regional Hearing Clerk  
U.S. EPA Region VI  
1201 Elm Street  
Dallas, TX 57270

Eileen J. Barnhardt

Eileen J. Barnhardt  
Secretary to the Chief  
Judicial Officer

Dated: MAY 19 1986



STATE OF NEW MEXICO

ENVIRONMENTAL IMPROVEMENT DIVISION  
P.O. Box 968, Santa Fe, New Mexico 87504-0968  
(505) 984-0020

Russell F. Rhoades, MPH, Director

TONEY ANAYA  
GOVERNOR

ROBERT McNEILL  
SECRETARY

ROBERT L. LOVATO, M.A.P.A.  
DEPUTY SECRETARY

JOSEPH F. JOHNSON  
DEPUTY SECRETARY

May 26, 1983


Mr. Edward E. Kennedy  
Director, Environmental Affairs  
Homestake Mining Co.  
P.O. Box 98  
Grants, New Mexico 87020

Dear Mr. Kennedy:

A draft National Pollutant Discharge Elimination System (NPDES) permit (NM0020389) has been issued for your facility by the U.S. Environmental Protection Agency's (EPA) Region VI office in Dallas. Section 401 of the federal Clean Water Act requires State Certification of an NPDES permit. The State utilizes stream standards, the Water Quality Control Commission Regulations and a "basin plan" in its certification review of a permit. The State has until June 20, 1983 to certify this permit. The State plans to impose additional parameters in your permit as a condition of State Certification. The attached draft includes the parameters which the State plans to include in the certification of your NPDES permit.

Feel free to contact me or Kathleen Sisneros if you have any questions.

Sincerely,

  
Anthony Drypolcher  
Program Manager  
Surface Water Section

AFD:KMS:gl

xc: Bill Bennett, EID District Manager  
Fred Humke, EPA  
Gallup, EID  
Milan, EID  
Bruce Gallaher, EID, Surveillance

**UNITED NUCLEAR-HOMESTAKE PARTNERS**

P. O. BOX 98  
GRANTS, NEW MEXICO  
87020

*Permit File*  
*NM 20389*

February 19, 1981

Mr. Oscar Cabra  
Chief, Industrial Permits Section (6 AEWP)  
U.S. Environmental Protection Agency -- Region 6  
1201 Elm Street  
Dallas, Texas 75270

Re: NPDES Permit No. NM-0020389

Dear Mr. Cabra:

We are in receipt of your notification that the Environmental Protection Agency has continued United Nuclear-Homestake Partners' ("UN-HP") NPDES Permit No. NM-0020389 pending issuance of a new permit. In connection with your reference to §122.5(b), it is UN-HP's understanding the terms and conditions in the continued permit No. NM-0020389 remain enforceable only to the extent they were previously enforceable. It is UN-HP's understanding in the matter of National Pollution Discharge Elimination System Permit for United Nuclear-Homestake Partners NPDES Permit No. NM-0020389 every provision of the permit has been stayed. Further, UN-HP understands that the continued permit No. NM-0020389 can be modified, or alternatively, revoked and reissued, only to the extent allowed by applicable law.

We have appreciated hearing from you that the Permit No. NM-0020389 of United Nuclear-Homestake Partners is continued pending the issuance of a new permit.

Very truly yours,

UNITED NUCLEAR-HOMESTAKE PARTNERS

*Edward E. Kennedy*  
Edward E. Kennedy  
Director of Environmental Affairs

EEK/jel

cc: Fred Humke, EPA

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FEB 23 1981

6AEP



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VI  
1201 ELM STREET  
DALLAS, TEXAS 75270

April 11, 1984

*Permit file  
NM0020389*

Mr. Ronald McCallum  
Judicial Officer (A-101)  
Office of the Administrator  
U.S. Environmental Protection Agency  
401 M Street, S.W.  
Washington, D.C. 20460

Re: Petition for Review of NPDES Permit No. NM0020389  
Homestake Mining Company

Dear Mr. McCallum:

Enclosed please find Region 6's Response to the Petition for Review of the NPDES Permit No. NM0020389.

Sincerely,

*Patrick A. Hudson*

Patrick A. Hudson  
Assistant Regional Counsel  
Region 6

Enclosure

cc: Peter J. Nickles  
Richard A. Meserve  
Covington & Burling  
1201 Pennsylvania Avenue, N.W.  
P.O. Box 7566  
Washington, D.C. 20044

Louis W. Rose, Esq.  
Assistant Attorney General  
Environmental Improvement Division  
State of New Mexico  
Post Office Box 968  
Santa Fe, New Mexico 87503-0968

G. Stanley Crout, Esq.  
Sunny J. Nixon, Esq.  
Stephenson, Carpenter, Crout & Olmsted  
Post Office Box 669  
Santa Fe, New Mexico 87504-0669

Judy Grady  
Regional Hearing Clerk  
U.S. Environmental Protection Agency  
Region VI  
1201 Elm Street  
Dallas, Texas 75270

BEFORE THE ADMINISTRATOR  
OF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C.

IN THE MATTER OF	X	
	X	
HOMESTAKE MINING COMPANY	X	REGION 6 REQUEST FOR
	X	STAY OF ALL PENDING
GRANTS, NEW MEXICO	X	MATTERS OR IN THE
	X	ALTERNATIVE FOR EXTENSION
NPDES PERMIT NO. NM0020389	X	OF TIME TO FULLY RESPOND

REGION 6 FIRST RESPONSE

In response to Quivira Mining Company's Petition for Review, Region 6 hereby moves that any and all matters before the Administrator pertaining to NPDES Permit No.0020532 be stayed pending a final decision in the judicial review of this permit matter as filed in the United States Court of Appeals for the Tenth Circuit. Homestake Mining Company v. EPA, No. 83-2356.

In the alternative, if the above Motion to Stay is not granted, Respondent Region 6, Dallas, Texas, moves that an extension of 30 days be granted in which to fully respond to Petitioner. Attorney for Respondent Region 6 is newly assigned to this matter and will need the additional time in

order to properly review the many lengthy files.

Respectfully Submitted,

Patrick A. Hudson, 6ORC  
Assistant Regional Counsel  
Office of Regional Counsel  
Region 6  
Interfirst Two Building  
1201 Elm Street  
Dallas, Texas 75270  
(214) 767-9970, FTS 729-9970

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing First Response by Region 6, Dallas, Texas has been served on all parties by first class mail, postage prepaid, on this 11th day of April, 1984 as follows:

Peter J. Nickles  
Richard A. Meserve  
Covington & Burling  
1201 Pennsylvania Avenue, N.W.  
P.O. Box 7566  
Washington, D.C. 20044

Louis W. Rose, Esq.  
Assistant Attorney General  
Environmental Improvement Division  
State of New Mexico  
Post Office Box 968  
Santa Fe, New Mexico 87503-0968

G. Stanley Crout, Esq.  
Sunny J. Nixon, Esq.  
Stephenson, Carpenter, Crout  
& Olmsted  
Post Office Box 669  
Santa Fe, New Mexico 87504-0669

And that one copy was hand delivered to

Judy Grady  
Regional Hearing Clerk  
U.S. Environmental Protection Agency  
Region VI  
1201 Elm Street  
Dallas, Texas 75270

---

Patrick A. Hudson



DEPARTMENT OF THE ARMY  
ALBUQUERQUE DISTRICT, CORPS OF ENGINEERS  
P. O. BOX 1580  
ALBUQUERQUE, NEW MEXICO 87103

REPLY TO  
ATTENTION OF:

July 18, 1983

Construction-Operations Division  
Regulatory Section

Mr. Mark Satterwhite  
U.S. Environment Protection Agency  
Permits Branch (6W-PS)  
Interfirst Two Building  
1201 Elm Street  
Dallas, TX 75270

Dear Mr. Satterwhite:

This is in response to your request for an evaluation of the impact that the discharge described in the following permit applications will have on anchorage and/or navigation.

<u>Applicant</u>	<u>Application Number</u>
Homestake Mining Co.	NM0020389
Gulf Oil Corporation	NM0028100
Bokum Resources	NM0028215

The receiving waters are not subject to navigation. If the proposed work involves discharges of dredged or fill material into waters of the United States a Department of the Army permit under Section 404 of the Clean Water Act may be required. The work may be permitted by the nationwide permit for outfall structures and their associated intake structures (33 CFR 330.5 (a)(7)) provided the applicant complies with all permit conditions. A summary of the provisions of this nationwide permit is attached. Activities which are not authorized by the nationwide permit may require an individual permit.

Sincerely,

Attachment

*Tom Ross*  
for Richard D. Blum, P.E.  
Chief, Construction-Operations  
Division

RECEIVED

JUL 22 1983

6W-PS